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November 13, 2006

BY E-FILE

The Honorable Joseph J. Farnan, Jr.
United States District Court
844 North King Street
Lockbox 27
Wilmington, DE 19801

Re: Judy Enders/Maden v. Super Fresh
C.A. No.: 05-669

Dear Judge Farnan:

I write concerning a discovery issue that has arisen as a result of *pro se* Plaintiff's recent request for counsel, which was filed with the Court on November 8, 2006. (D.I. 33). While Defendant takes no position on Plaintiff's request for counsel, it is interested in the resolution of that request because of its potential impact on the ability of the parties to complete discovery in compliance with the Court's Scheduling Order.

By way of background, Plaintiff is a former employee of Defendant Super Fresh. Plaintiff alleges that she was discriminated against on the basis of her gender when her schedule was reduced from full-time to part-time upon the transfer (pursuant to the terms of a collective bargaining agreement) of a more senior employee from another store.

Plaintiff's deposition has been rescheduled several times. The parties have agreed to a mutually convenient date and time but, each time, the scheduled deposition was adjourned due to Plaintiff's scheduling conflicts and, most recently, because Plaintiff's husband demanded to appear and participate in the deposition process. After Defendant's motion to preclude

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Plaintiff's husband from participating in depositions was granted, (D.I. 32), Plaintiff filed the instant request that the Court assign counsel. (D.I. 33)

Plaintiff's deposition has been noticed to proceed on Tuesday, November 21, 2006, (D.I. 34), and discovery is set to close on November 30, 2006. Defendant would like to complete Plaintiff's deposition before the close of discovery but is concerned that the deposition will either not take place or will take place under protest due to Plaintiff's outstanding request for counsel. Should the currently noticed deposition not proceed as scheduled, Defendant will be unable to depose Plaintiff prior to the expiration of the discovery period.

Accordingly, Defendant respectfully requests the Court's guidance on how to proceed under these circumstances.

Respectfully submitted,

/s/ Margaret M. DiBianca

Margaret M. DiBianca, Esq. (#4539)

MDIBI:m

cc: Judy Enders/Maden (via U.S. Certified Mail)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2006, I electronically filed **Defendant's Letter to the Court Regarding Plaintiff's Motion for Appointment of Counsel** with the Clerk of Court using CM/ECF. I hereby certify that on November 13, 2006, I have mailed by Certified United States Postal Service Return Receipt Requested, the document to the following non-registered participants:

Judy Enders/Maden
1 Laurel Avenue
Wilmington, DE 19809

/s/ Margaret M. DiBianca
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